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10 CITY OF OAKLAND, WILLIAM FEBEL,
11 And JASON BELLIGAN

12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14 EVELYN WRIGHT-TURBIN, an individual;
15 CLIFTON GUPTON, an individual,

16 Plaintiffs,

17 v.

18 CITY OF OAKLAND, a municipal
19 corporation; WILLIAM FEBEL, individually
20 and in his capacity as Police Officer for the
21 CITY OF OAKLAND; JASON BELLIGAN,
22 individually and in his capacity as Police
23 Officer for the CITY OF OAKLAND; and
24 DOES 1-50, inclusive, individually and in
25 their official capacity as Police Officers for
26 the CITY OF OAKLAND,

Defendants.

Case No. 4:16-cv-07393 CW

**JOINT CASE MANAGEMENT
STATEMENT**

Date: August 22, 2017
Time: 2:30 p.m.
Courtroom: TBD

21 The Parties to this action have conferred as required by Federal Rule of Civil
22 Procedure 26(f) and Local Rule 16, and file this Joint Case Management Statement
23 addressing the topics set forth in the Standing Order for All Judges of the Northern District
24 of California.

25 1. Jurisdiction and Service: The Court has jurisdiction under 42 U.S.C. § 1983
26 and 1988 and the Fourth and Fourteenth Amendments to the United States Constitution.

1 There are no issues regarding either personal jurisdiction or venue. Service on all named
2 defendants is complete.

3 2. Facts:

4 Plaintiffs' Version of Facts:

5 In 1987, Plaintiff Wright-Turbin, broke the tibia in her left leg after she was involved
6 in a major car accident. After the accident, Plaintiff Wright-Turbin continued to suffer
7 complications as a result of the structural damage to her leg. Sometime in 2014, Plaintiff
8 Wright-Turbin began to suffer from an unbearable pain in her left knee. On February 2,
9 2015, Plaintiff Wright-Turbin underwent a knee replacement at Alta Bates Summit Medical
10 Center in Berkeley, California.
11

12 On the date of the incident, February 24, 2015, Plaintiff Wright-Turbin was asleep
13 on the living room couch in her apartment, recovering from her knee replacement. Plaintiff
14 Gupton was asleep in the bedroom. At approximately 2:30 p.m., Plaintiff Wright-Turbin
15 was awoken by the sound of aggressive knocking at her front door and the adjacent
16 windows. Confused, Plaintiff Wright-Turbin managed to make her way to her front door.
17 When Plaintiff Wright-Turbin got to the front door, she asked, "Who is it?", then proceeded
18 to look out the window. When Plaintiff Wright-Turbin looked out the window, she saw
19 Defendants Febel, Belligan, and seven yet-to-be identified Oakland Police Department
20 Officers.
21
22

23 The Defendant officers drew their guns and lifted up a battering-ram. The
24 Defendants told Plaintiff Wright-Turbin that if she did not open the door, they would enter
25 her apartment by force. Afraid, Plaintiff Wright-Turbin opened her door. Without
26

1 justification, the Defendant officers immediately grabbed Plaintiff Wright-Turbin. In a move
2 of desperation, Plaintiff Wright-Turbin lifted up her pant leg and told the Defendant officers
3 that she recently had a knee replacement. Even still, without regard for Plaintiff Wright-
4 Turbin's condition, the Defendant officers forcefully removed Plaintiff Wright-Turbin from
5 her apartment.

6
7 The Defendant officers proceeded to throw Plaintiff Wright-Turbin down the steps
8 that led to her apartment, injuring her surgically replaced knee in the process. The
9 Defendants then dragged Plaintiff Gupton out of the apartment and threw him down the
10 stairs. The Defendant Officers handcuffed both Plaintiff Wright-Turbin and Plaintiff Gupton.
11

12 During the course of the incident, Plaintiff Wright-Turbin pleaded with the defendant
13 officers. Plaintiff Wright-Turbin told the officers that they had the wrong apartment. In
14 response, the seargeant on the scene said, "so what?" and "take it up with the people up
15 front."
16

17 The search warrant listed 2230 84th Avenue, Apt. A Oakland, CA, 94605 as the
18 addressed to be searched. The address listed was Plaintiff Wright-Turbin's address,
19 however, the officers were looking for suspected drug dealer, Walter Ozell Cooper. Mr.
20 Cooper did not live at the listed address, nor did he have any connection to Plaintiffs
21 Wright-Turbin or Gupton.
22

23 On information and belief, the search warrant was issued as the consequence of
24 Defendants' failure to exercise reasonable care in the investigation and presentation of
25 accurate statements that were essential to the finding of probable cause for the warrant.
26

1 Plaintiffs allege that only unreasonable officers would execute a search warrant in
2 the manner and under the circumstances the Defendant officers did, that Plaintiffs Wright-
3 Turbin and Gupton never presented any threat to anyone that could justify the amount of
4 force that Defendant officers used, and that the Defendant officers had a clear opportunity
5 to evaluate the situation and determine that the search warrant was flawed.
6

7 As a result of the incident, Plaintiff Wright-Turbin has experienced extreme pain and
8 suffering. Plaintiff Wright-Turbin's surgically replaced knee was injured and required
9 additonal months of treatment in order to heal properly. In addition, Plaintiffs Wright-Turbin
10 and Gupton currently suffer from paranoia, anxiety, and emotional distress as a
11 consequence of the unlawful search.
12

13 The actions and omissions of the City and the Defendant Oakland Police
14 Department Officers were objectively unreasonable under the circumstances, without legal
15 justification or other legal right, done under color of law, within the course and scope of
16 their employment as law enforcement officers and/or public officials, and pursuant to
17 unconstitutional customs, policies and procedures of the City and/or other jurisdictions.
18 The City was also responsible for Plaintiffs' injuries through its own acts and omissions,
19 negligent and otherwise, by failing to properly and adequately investigate, train, supervise,
20 monitor, instruct, and discipline its law enforcement officers and/or employees and agents,
21 including the officers and officials described herein.
22
23

24 Defendants' Version of Facts: On February 24, 2015, officers with the Oakland
25 Police Department served a valid search warrant at 2230 84th Avenue, Apartment A.
26 Plaintiffs resided at that address on that date. The individual named in the search warrant

1 was Walter Ozell Cooper, Jr. Mr. Cooper had listed that address in numerous documents
2 obtained by the Oakland Police Department. While Plaintiffs denied that Mr. Cooper lived
3 at the address, he was arrested during the execution of the search warrant outside of this
4 apartment.

5
6 As is clear from the Personal Digital Recording Device ("PDRD") footage of several
7 officers, Plaintiffs were carefully escorted from the residence once they opened the front
8 door of the apartment. They were not "thrown down the steps leading to the apartment" as
9 alleged by Plaintiffs. They were briefly detained and once the officers completed
10 searching the apartment, Plaintiffs were escorted back into the apartment. The apartment
11 was not ransacked and was left in virtually the same manner as when officers entered the
12 apartment.

13 3. Legal Issues:

14 Plaintiffs claim that officers with the Oakland Police Department unlawfully
15 searched and detained them and in doing so committed excessive force, violated Plaintiffs'
16 state civil rights, were negligent, assaulted and battered Plaintiffs, falsely imprisoned
17 Plaintiffs, and intentionally inflicted emotional distress on Plaintiffs. Plaintiffs also claim
18 Monell violations against the City of Oakland.

19 Defendants deny Plaintiffs' claims.

20 4. Motions: There are no pending or prior motions. Defendants anticipate filing
21 a dispositive motion as to all claims.

22 5. Amendment of Pleadings: The parties do not anticipate any amendments to
23 the pleadings.

24 6. Evidence Preservation: The parties have reviewed the Guidelines Relating to
25 the Discovery of Electronically Stored Information ("ESI Guidelines"). The Parties have
26 met and conferred pursuant to Fed.R.Civ.Proc. 26(f) regarding reasonable and
proportionate steps taken to preserve evidence relevant to the issues reasonably evident

1 in this action.

2 7. Disclosures: The parties will exchange initial disclosure requirements
3 pursuant to Fed.R.Civ.P. Rule 26 before the date of the Initial Case Management
4 Conference. Defendant will identify witnesses and identify and produce non-privileged
5 documents relevant to plaintiff's claims. Defendant will also produce the search warrant
6 and the Personal Data Recording Device ("PDRD") footage of several officers involved in
7 the search.

8 8. Discovery: No discovery has taken place to date. The parties anticipate the
9 need for expert testimony, disclosure, and discovery in this case. The parties propose the
10 following discovery plan:

11 Each side may take up to ten (10) depositions not including expert
12 depositions.

13 Each party may propound up to twenty-five (25) Interrogatories.

14 Each party may propound up to twenty-five (25) Request for Production of
15 Documents.

16 Each party may propound up to twenty-five (25) Request for Admissions.

17 There are no known discovery disputes at this time.

18 9. Class Actions: This is not a class action.

19 10. Related Cases: There are no known related cases.

20 11. Relief: Plaintiffs seek general, special, and punitive damages, attorneys'
21 fees, and costs of suit.

22 12. Settlement and ADR: The parties have discussed ADR and possibilities for
23 settlement, and agree that this case is suitable for the Northern District's ADR program.

24 13. Magistrate Judge: All parties will consent to a magistrate judge conducting all
25 further proceedings including trial and entry of judgment in this case.

26 14. Other References: The parties agree that this case is not suitable for
reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict

1 Litigation.

2 15. Narrowing of Issues: The parties may be able to narrow factual issues either
3 by their complete resolution in motions for summary judgment, or by the presentation of
4 stipulated evidence at trial, and commit their good faith efforts to so doing. The parties do
5 not anticipate requesting bifurcation of issues, claims, or defenses, and do not so request
6 at this time.

7 16. Expedited Trial Procedure: This case is not the type that can be handled
8 under the Expedited Trial Procedure of General Order No. 64.

9 17. Scheduling: The parties propose the following dates:

10 Designation of experts: Monday, April 2, 2018.

11 Discovery Cutoff: Monday, April 30, 2018.

12 "Discovery Cutoff" means that all discovery requests are served on a date
13 from which responses will be due on or before the cutoff date; depositions are completed;
14 and any discovery motions are properly noticed to be heard on or before the cutoff date.

15 Hearing of Dispositive Motions: Tuesday, July 10, 2018.

16 Pretrial Conference: Monday, September 10, 2018.

17 Trial: Monday, October 8, 2018.

18 18. Trial: The case will be tried to a jury and is expected to require no more than
19 seven court days.

20 19. Disclosure of Non-party Interested Entities or Persons: Plaintiff has filed the
21 "Certification of Interested Entities or Persons" required by Civil Local Rule 3-15, in which
22 Plaintiff disclosed that no non-party has a financial interest in the subject matter in
23 controversy or a party to the proceeding, or any other kind of interest that would be
24 substantially affected by the outcome of the proceedings. Defendant is not required to file
25 this certificate.

26 20. Professional Conduct: All attorneys of record for the parties have reviewed
the Guidelines for Professional Conduct for the Northern District of California.

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Dated: August 9, 2017

By: /S/
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